

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

COMMONWEALTH OF PUERTO RICO and
the PUERTO RICO POLICE DEPARTMENT,

Defendants.

NO. 3:12-cv-2039 (GAG)

**INFORMATIVE MOTION REGARDING DEFENDANTS' DECISION TO ENFORCE
EXECUTIVE ORDER 2020-087 WITH ROADBLOCKS OR TRAFFIC CHECKPOINTS
AND REQUEST FOR HEARING**

TO THE HON. GUSTAVO A. GELPÍ, CHIEF U.S. DISTRICT JUDGE:

NOW COMES, John Romero, in his capacity as Federal Police Monitor, who respectfully, through the General Counsel of the Federal Police Monitor's Office ("Monitor's Office"), states and prays as follows:

The Governor of Puerto Rico has issued multiple executive orders regarding the COVID-19 pandemic. The latest one was issued on December 3, 2020: Executive Order 2020-087. The Puerto Rico Police Bureau ("PRPB") subsequently decided to carry out roadblocks or traffic checkpoints in different municipalities of the island to enforce Executive Order 2020-087. According to what PRPB informed on December 7, 2020 to the local press, if individuals inside a vehicle are not part of the same family nucleus, they must be wearing masks or are each exposed to a fine.

On December 7, 2020, the Monitor's Office inquired PRPB as to whether there was a specific protocol to implement traffic stops based on violations of the Governor's executive orders.

On December 10, 2020, PRPB produced General Order 600-629 dated October 9, 2020, as amended on October 30, 2020, together with general forms and a circular letter on general traffic roadblocks and the issuance of electronic citations.¹

After reviewing the foregoing documents, plaintiff, United States of America (“USDOJ”) and the Monitor’s Office responded to PRPB that same day (December 10). They stated that PRPB had not produced a specific protocol governing the implementation of COVID-19 related roadblocks or traffic checkpoints. In addition, they requested confirmation if indeed no protocol was in place and if PRPB had provided specific guidance to its officers working on the roadblocks.

As of today, the Monitor’s Office has neither received protocols nor guidelines regarding these traffic checkpoints and roadblocks.

The Monitor’s Office respectfully submits that PRPB, prior to continuing the enforcement of traffic checkpoints and roadblocks to implement the COVID-19 executive orders, must have in place objective patterns and guidelines for detentions to avoid arbitrary “profiling” by its officers. Therefore, PRPB should create guidelines which include proper procedures to avoid unnecessary intrusion to the privacy rights of drivers and passengers inherent to the operation and aimed to restrict the discretionary exercise by PRPB’s officers in the field. Moreover, it should be clear that these roadblocks should not be designed for general law enforcement purposes.

In the absence of such protocol or guidelines, the current traffic checkpoints and roadblocks to ascertain if individuals should be wearing or not a facemask is unconstitutional and, thus, in violation of the “Agreement for the Sustainable Reform of the Puerto Rico Police Department” dated July 17, 2013 (ECF No. 57-1) (“Agreement”).²

¹ It is important to point out that PRPB ***failed*** to disclose General Order 600-629 for review pursuant to paragraph 229 of the “Agreement for the Sustainable Reform of the Puerto Rico Police Department” dated July 17, 2013 (ECF No. 57-1).

² The Monitor’s Office is willing to file a memorandum of law in support of its position if the district court so requests.

WHEREFORE, the Federal Police Monitor, John Romero, respectfully requests that the Court take notice of the above and include discussion of this motion in the upcoming hearing scheduled for December 15, 2020 to allow PRPB and USDOJ to provide the Court with their respective positions.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 12th day of December 2020.

I HEREBY CERTIFY that on this same date a copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which in turn notifies all counsel of record in the case.

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